

# EXHIBT 8

**FREEDOM COURT REPORTING**

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<p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE MIDDLE DISTRICT OF ALABAMA 3 EASTERN DIVISION 4 5 LORI ANN MORRIS, ) 6 Plaintiff, ) 7 vs. ) CASE NUMBER: 8 FLORIDA TRANSFORMER, ) 3:05-CV-962-T 9 EDWARD NEAL THOMPSON, ) 10 et al., ) 11 Defendants. ) 12 13 DEPOSITION OF WILLIAM EARL TIDWELL 14 In accordance with Rule 5(d) of 15 The Alabama Rules of Civil Procedure, as 16 Amended, effective May 15, 1988, I, Cindy 17 Weldon, am hereby delivering to Henry L. 18 Penick, the original transcript of the oral 19 testimony taken on the 14th day of July, 20 2006, along with exhibits. 21 Please be advised that this is the 22 same and not retained by the Court Reporter, 23 nor filed with the Court.</p>	<p>1 AGREED that the signature to and the reading 2 of the deposition by the witness is waived, 3 the deposition to have the same force and 4 effect as if full compliance had been had 5 with all laws and rules of Court relating to 6 the taking of depositions. 7 IT IS FURTHER STIPULATED AND 8 AGREED that it shall not be necessary for 9 any objections to be made by counsel to any 10 questions, except as to form or leading 11 questions, and that counsel for the parties 12 may make objections and assign grounds at 13 the time of trial, or at the time said 14 deposition is offered in evidence, or prior 15 thereto. 16 IT IS FURTHER STIPULATED AND 17 AGREED that notice of filing of the 18 deposition by the Commissioner is waived. 19 20 21 22 23</p>
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<p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE MIDDLE DISTRICT OF ALABAMA 3 EASTERN DIVISION 4 5 LORI ANN MORRIS, ) 6 Plaintiff, ) 7 vs. ) CASE NUMBER: 8 ) 3:05-CV-962-T 9 FLORIDA TRANSFORMER, ) 10 EDWARD NEAL THOMPSON, ) 11 et al., ) 12 Defendants. ) 13 14 S T I P U L A T I O N 15 IT IS STIPULATED AND AGREED, by 16 and between the parties through their 17 respective counsel, that the deposition of 18 WILLIAM E. TIDWELL, may be taken before 19 Cindy Weldon, Certified Shorthand Reporter, 20 Commissioner and Notary Public, at 732 North 21 9th Street, DeFuniak Springs, Florida, on 22 July the 14th, 2006 at 10:20 a.m. 23 IT IS FURTHER STIPULATED AND</p>	<p>1 A P P E A R A N C E S 2 3 FOR THE PLAINTIFF: 4 MR. HENRY L. PENICK 5 THE PENICK BUILDING 6 319 - 17TH STREET NORTH, SUITE 200 7 BIRMINGHAM, ALABAMA 35203 8 9 FOR THE DEFENDANT: 10 MR. RICHARD BROUGHTON 11 2000 INTERSTATE PARK DRIVE 12 SUITE 204 13 MONTGOMERY, ALABAMA 36109 14 15 ALSO PRESENT: 16 MR. EDWARD NEAL THOMPSON 17 MR. FRANKLIN SCOTT SEAY 18 19 20 21 22 23</p>

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<p>1 INDEX</p> <p>2</p> <p>3 EXAMINATION BY: PAGE</p> <p>4 MR. PENICK 6</p> <p>5 MR. BROUGHTON 105</p> <p>6</p> <p>7</p> <p>8</p>		<p>1 There's no trick questions. We're just</p> <p>2 having a conversation. If you need to take</p> <p>3 a break for any reason, just let me know and</p> <p>4 we'll take a break.</p> <p>5 The only thing that I'd ask is,</p> <p>6 that if we do take a break or you want to</p> <p>7 take a break and I have asked you a</p> <p>8 question, let's complete the answer to that</p> <p>9 question before we take a break.</p>	
<p>9 EXHIBITS</p> <p>10 PAGE</p> <p>11 PLAINTIFF'S EXHIBIT NO. 1 41</p> <p>12 PLAINTIFF'S EXHIBIT NO. 2 47</p> <p>13 PLAINTIFF'S EXHIBIT NO. 3 94</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>		<p>10 MR. BROUGHTON: And we and the</p> <p>11 court reporter -- There's two things. The</p> <p>12 court reporter is going to try to take down</p> <p>13 everything that we all say by whatever that</p> <p>14 magical box is over there.</p> <p>15 But the two things there is, one,</p> <p>16 you need to answer with a verbal response</p> <p>17 instead of a head shake and, two, try not to</p> <p>18 talk when Henry is talking and he's going to</p> <p>19 try not to talk when you're talking. That</p> <p>20 way, she'll get down everything.</p> <p>21 A. Okay.</p> <p>22 Q. Let's start by letting you tell me</p> <p>23 a little bit about yourself, if you would.</p>	
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<p>1 WILLIAM EARL TIDWELL,</p> <p>2 after first being duly sworn, testified</p> <p>3 as follows:</p> <p>4 EXAMINATION BY MR. PENICK:</p> <p>5 THE COURT REPORTER: Usual</p> <p>6 stipulations?</p> <p>7 MR. PENICK: Yes.</p> <p>8 MR. BROUGHTON: Yes.</p> <p>9 Q. Good morning, Mr. Tidwell. I'm</p> <p>10 Henry Penick. I represent Lori Ann Morris</p> <p>11 who is the plaintiff in this case. And this</p> <p>12 is a deposition -- Have you ever had your</p> <p>13 deposition taken before?</p> <p>14 A. Yes, sir.</p> <p>15 Q. All right. Then you know that the</p> <p>16 procedure is that I'll ask questions and</p> <p>17 you'll answer them. And when you answer,</p> <p>18 you have to answer with either a yes or a</p> <p>19 no. You can't answer with a nod because she</p> <p>20 can't take down a nod.</p> <p>21 A. Right.</p> <p>22 Q. If I ask any questions that you</p> <p>23 don't understand, just ask me to repeat it.</p>		<p>1 Just tell me where you were born and where</p> <p>2 you went to school in the early days. We'll</p> <p>3 just start there.</p> <p>4 A. I was born in Samson, Alabama. I</p> <p>5 went to school at Ponce De Leon. Born and</p> <p>6 raised -- just raised around Holmes County,</p> <p>7 Florida.</p> <p>8 Q. And so you went to high school in</p> <p>9 this area?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Did you graduate from high school?</p> <p>12 A. Yes.</p> <p>13 Q. What's the name of the high school</p> <p>14 again?</p> <p>15 A. Ponce De Leon.</p> <p>16 Q. And when were you born?</p> <p>17 A. 1969, January the 24th.</p> <p>18 Q. So when you graduated from high</p> <p>19 school, then that would have been about --</p> <p>20 A. 1988 I graduated high school.</p> <p>21 Q. What did you do immediately after</p> <p>22 high school?</p> <p>23 A. I went to work for Talla Tank</p>	

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1 the highway?

2 A. No, sir. Not that I remember.

3 There wasn't nothing unusual about it.

4 Q. Well, tell me what happened as you

5 got in the area of this accident.

6 A. Like we was meeting cars coming

7 south and we were going north. And all of a

8 sudden, there was this truck laying across

9 the whole interstate.

10 Q. Let me ask you about the cars or

11 trucks going south. They were over on the

12 other side of the highway separated by a

13 median; right?

14 A. Yes, sir.

15 Q. And you had two lanes going north?

16 A. Yes, sir.

17 Q. All right. So tell me what

18 happened as you all got close to this

19 location where the accident occurred.

20 A. We were just going north on 85.

21 And all of a sudden, there -- like I said,

22 there was a semi across the road.

23 Q. What did you notice about the

Page 38

1 semi?

2 A. When we seen it, it was overturned

3 with the bottom of it pointed at us.

4 Q. Do you recall whether or not any

5 lights were on, on the semi that was

6 overturned?

7 A. There was no lights on that semi

8 as I can recall being on.

9 Q. Do you recall whether or not it

10 had any reflectors that were showing?

11 A. There's no reflectors on the

12 bottom of a semi.

13 Q. Okay. You know, sometimes on the

14 side, they might have a three dimensional

15 reflector mounted on the side of the

16 trailer. And if it's three dimensional, I

17 was wondering whether or not you could see

18 anything reflecting back like that.

19 A. We didn't -- I did not see nothing

20 that I can recall thinking back.

21 Q. Okay. Do you recall seeing the

22 headlights of the semi pointed in any

23 direction, the overturned semi?

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1 A. Not that I can recall.

2 Q. So were you having any

3 conversation with Neal as you all approached

4 this location where the accident occurred?

5 A. Not that I can remember. We were

6 not having a conversation.

7 Q. Do you remember anything that was

8 going on at all?

9 A. He was just driving up the road

10 and I was sitting over there watching him.

11 Q. So what happened once you

12 recognized this overturned trailer in the

13 freeway?

14 A. Neal hit the brakes as quick as he

15 and I both recognized it. There was nowhere

16 to go to get away from it.

17 Q. Okay. How many lanes did the semi

18 block -- the overturned semi blocking?

19 A. It was blocking both north bound

20 lanes, plus half the emergency lane.

21 Q. Do you believe that the part of

22 the tractor portion of the overturned semi

23 was in the emergency lane?

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1 A. Yes, sir.

2 Q. Did you ever tell anyone that

3 information before?

4 A. The state trooper.

5 Q. Okay. Do you know if he ever

6 recorded that the tractor portion of the

7 overturned semi was in the emergency lane?

8 A. No. I don't remember if he did or

9 not.

10 Q. Did you do an affidavit in this

11 case?

12 A. Affidavit?

13 Q. Yes. Did you sign an affidavit in

14 this case?

15 A. I don't remember.

16 Q. Okay. I want to show you this.

17 This is your affidavit.

18 MR. PENICK: We're going to use

19 this affidavit for purposes of his

20 examination. But I'm sure, Richard, we

21 would like to submit a clean copy. This is

22 the only copy I have.

23 Q. We'll call it Exhibit 1 to your

10 (Pages 37 to 40)



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<p style="text-align: right;">Page 41</p> <p>1 deposition.</p> <p>2 (Whereupon, Plaintiff's Exhibit</p> <p>3 No. 1 was marked for identification.)</p> <p>4 MR. BROUGHTON: We've already</p> <p>5 submitted a copy in support of our motion</p> <p>6 for summary judgment. So we can refer to</p> <p>7 that one.</p> <p>8 MR. PENICK: Well, I'd like to</p> <p>9 attach a copy to the deposition. But this</p> <p>10 is the only copy I've got now. It's got</p> <p>11 writing on it.</p> <p>12 Q. But I want you to disregard any</p> <p>13 notes that I have written on it and just go</p> <p>14 with what you said in your affidavit.</p> <p>15 A. Okay.</p> <p>16 Q. Is there anywhere in this</p> <p>17 affidavit that you said that you saw the</p> <p>18 overturned semi blocking all of the north</p> <p>19 bound lanes and the emergency lane?</p> <p>20 A. Is there anywhere in here?</p> <p>21 Q. Yes. That you said that.</p> <p>22 MR. BROUGHTON: Take your time.</p> <p>23 You can review the whole thing if you need</p>	<p style="text-align: right;">Page 43</p> <p>1 having overturned, you saw after impact?</p> <p>2 A. Right.</p> <p>3 Q. And after impact is when you saw</p> <p>4 evidence that the overturned trailer, which</p> <p>5 we'll call Morris' tractor trailer, had gone</p> <p>6 off the road; is that right?</p> <p>7 A. That's when we realized everything</p> <p>8 happened, after he went off the road.</p> <p>9 Q. After you had the impact?</p> <p>10 A. Yes, sir.</p> <p>11 Q. You didn't know that he had been</p> <p>12 off the road before impact?</p> <p>13 A. Not that I can remember.</p> <p>14 Q. Did you see any debris in the road</p> <p>15 prior to impact?</p> <p>16 A. Not that I can remember. We did</p> <p>17 not see any debris or nothing.</p> <p>18 Q. Did you see any signage down</p> <p>19 before the impact?</p> <p>20 A. Not that I can remember.</p> <p>21 Q. Describe the brake -- Well, first</p> <p>22 of all, you said Neal hit his brakes; right?</p> <p>23 A. Right.</p>
<p style="text-align: right;">Page 42</p> <p>1 to.</p> <p>2 A. Repeat the question again.</p> <p>3 Q. Do you see anywhere in your</p> <p>4 affidavit that you indicated prior to now</p> <p>5 that the overturned semi was blocking both</p> <p>6 lanes and the emergency lane?</p> <p>7 A. I see where it says both north</p> <p>8 bound lanes of traffic. But not the</p> <p>9 emergency lane.</p> <p>10 Q. So in your previous affidavit, you</p> <p>11 didn't say it was blocking the emergency</p> <p>12 lane, did you?</p> <p>13 A. No, sir.</p> <p>14 Q. Now, before you came -- Before you</p> <p>15 had impact with the -- First of all, did you</p> <p>16 have impact with the overturned tractor</p> <p>17 trailer?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Before you had impact with it, did</p> <p>20 you see any kind of evidence of it</p> <p>21 overturning prior to having impact?</p> <p>22 A. Not that I can recall right now.</p> <p>23 Q. So the evidence that you saw of it</p>	<p style="text-align: right;">Page 44</p> <p>1 Q. Describe the braking system on the</p> <p>2 Peterbilt that you all were driving -- that</p> <p>3 he was driving that night.</p> <p>4 A. It was just a 1995 Peterbilt.</p> <p>5 Now, I can't go into detail because I don't</p> <p>6 know that much about the braking system on</p> <p>7 how it -- I know they work and all that.</p> <p>8 Q. All right.</p> <p>9 A. It did not have no ABS on it or</p> <p>10 anything like that.</p> <p>11 Q. Did you say something to Neal</p> <p>12 immediately before the impact?</p> <p>13 A. Not that I can remember.</p> <p>14 Q. Did he say anything to you</p> <p>15 immediately before the impact?</p> <p>16 A. Not that I can remember he didn't.</p> <p>17 Q. Did either one of you make any</p> <p>18 exclamations before the impact?</p> <p>19 A. Not that I can remember. It all</p> <p>20 happened too quick.</p> <p>21 Q. Do you wear glasses by the way?</p> <p>22 A. No, sir.</p> <p>23 Q. Was Neal wearing glasses that</p>

11 (Pages 41 to 44)